

**COMPLAINT INVESTIGATION
WASHOE COUNTY SCHOOL DISTRICT
(#WA011316)**

Report Issued on March 11, 2016

INTRODUCTION

On January 13, 2016, the Nevada Superintendent of Public Instruction received a Complaint dated January 13, 2016, from a Parent alleging violations in the special education program of a student with a disability attending the Washoe County School District (WCSD). The Parent alleged that the WCSD failed to implement the student's Individualized Education Program (IEP) because it did not permit the student to use notes on the December 16, 2015 Algebra Exam, despite the fact that the accommodations in the IEP permitted the use of notes during exams. The Parent's proposed resolution was for the student to retake the Algebra Exam (final) with notes.

COMPLAINT ISSUES

The allegation in the Complaint raised the following issue under the jurisdiction of the NDE to investigate:

Issue One: Whether the WCSD complied with the requirements of the IDEA and the NAC, Chapter 388, to implement the student's IEP, specifically with respect to permitting the student to use notes for the December 16, 2015 Algebra final.

FINDINGS OF FACT (FOF)

1. The student, a high school student, had an October 21, 2015 Annual IEP in effect at the time of the December 16, 2015 Algebra final. The IEP included an accommodation that stated the student could use notes "for all assessments/finals in all classes" in the general education setting. (October 21, 2015 Annual IEP)
2. On December 16, 2015, the student took the Algebra final in the general education setting and was not permitted to use notes. (Complaint, WCSD Compliance Specialist)
3. In reliance on WCSD policy regarding the administration of "District Common Finals" and the WCSD Special Education Manual, the WCSD Department of Assessment personnel advised the WCSD Special Education personnel, that "[U]sing notes on the District Common Finals is not an appropriate accommodation on this type of exam. . . ." Based on this advice from the WCSD Department of Assessment personnel, school staff at the student's school made the unilateral decision to deny the student the use of notes for the Algebra final. The school staff neither notified the Parent of this unilateral decision nor convened the student's IEP Team to review the student's IEP and revise the IEP, if appropriate, prior to the administration of the Algebra final. (Compliance Specialist, Email Correspondence, WCSD Department Directory)
4. Subsequent to the filing of the Complaint, the student was permitted to retake the Algebra final using notes. (Compliance Specialist, Principal)

CONCLUSIONS OF LAW AND REASONS

Issue One: Whether the WCSD complied with the requirements of the IDEA and the NAC, Chapter 388, to implement the student's IEP, specifically with respect to permitting the student to use notes for the December 16, 2015 Algebra final.

Pursuant to the IDEA and the NAC, Chapter 388, the WCSD was required to provide the services and instruction deemed necessary for the student by the IEP Team. (NAC §388.281(6)(g), 34 C.F.R. §300.17(d))

In this case, the student's October 21, 2015 Annual IEP included the accommodation of permitting the use of notes for all finals in all classes in the general education setting. (FOF #1) The WCSD conceded that when the student took the December 16, 2015 Algebra final the use of notes was prohibited. (FOF #2) The school staff neither notified the Parent of this unilateral decision nor convened the student's IEP Team to review the student's IEP and revise it. (FOF #3) Absent a revision, the WCSD was obligated to implement the October 21, 2015 IEP as written and to permit the student to use notes during the final.

Therefore, the WCSD failed to comply with the requirements of the IDEA and the NAC, Chapter 388, to implement the student's IEP with respect to permitting the student to use notes for the December 16, 2015 Algebra final.

ORDER FOR CORRECTIVE ACTION

The WCSD is required to take corrective action to address the violation found in this Complaint investigation, specifically the failure to implement the student's IEP when it refused to permit the student the accommodation of using notes while taking the December 16, 2015 Algebra final. Because the student was subsequently permitted to retake the Algebra final with notes (FOF #4), the Complaint Investigation Team determined that no student remedy was warranted in this case.

Revision of Policy and Professional Development/Training

Within 30 days of receipt of this report, the WCSD must develop and submit to the Nevada Department of Education (NDE) a proposed Corrective Action Plan (CAP) as follows:

1. Issue a directive to the WCSD Department of Assessment administrative personnel and the WCSD Special Education personnel, including the relevant school staff at the student's school, regarding the implementation of test taking accommodations in students' IEPs in the administration of "District Course Finals."
2. Review and revise the WCSD Administrative Procedure 6405 Final Test Guidelines: High School and Middle School and the WCSD Special Education Procedures Manual and any other related policies that conflict with the requirement under the IDEA and the NAC, Chapter 388, regarding the implementation of a student's IEP that includes a test taking accommodation, including the administration of "District Course Finals."
3. Train WCSD Department of Assessment administrative personnel, on the requirement under the IDEA and the NAC, Chapter 388, regarding the implementation of a student's IEP that includes a test taking accommodation, including the administration of "District Course Finals, and the revised policies. The CAP must include the content of the proposed training.

The CAP must be approved by the NDE prior to implementation. Following the approval of the CAP, the WCSD must:

1. Issue the directive referenced above as soon as possible but no later than the 10 school days prior to the administration of the "District Course Finals" for the final semester of the 2015-2016 school year.
2. Issue the revised WCSD policies referenced above to relevant WCSD personnel no later than six months following the approval of the CAP.
3. Complete the training of Department of Assessment administrative personnel no later than 30 days following the issuance of the revised WCSD policies referenced above. Within 15 days of the completion of the training, documentation, including verification that the participants mastered the information, must be provided to the NDE.